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No. 82-1540

IN THE

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Supreme Court of the United States

OCTOBER TERM, 1982

WASHINGTON METROPOLITAN AREA

TRANSIT AUTHORITY, *et al.*,

Petitioners,

v.

ROBERTO QASIM, *et al.*,

Respondents.

On Petition for Writ of Certiorari to the
District of Columbia Court of Appeals

**RESPONDENTS' OPPOSITION TO CONSIDERATION
OF THE BRIEF *AMICI CURIAE* OF THE
STATE OF MARYLAND AND THE COMMONWEALTH
OF VIRGINIA IN SUPPORT OF THE
PETITION FOR A WRIT OF CERTIORARI**

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Dated: April 22, 1983

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Pursuant to Rule 35, Roberto Qasim *et al.*, Respondents in Opposition, hereby oppose consideration of the brief *amici curiae* of the State of Maryland and the Commonwealth of Virginia supporting the petition for a writ of certiorari.

Notwithstanding the interests of the *amici* now asserted, neither Maryland nor Virginia appeared in any of the proceedings below. Moreover, the proffered *amici curiae* brief reveals that their participation in the proceedings before this Court would be entirely superfluous. The legal arguments allegedly supporting review presented by the *amici* do not and could not

differ from those already advanced by Petitioner Washington Metropolitan Area Transit Authority ("WMATA").¹ Because the brief of the *amici* is merely repetitious and cumulative of the arguments presented by WMATA, the brief is superfluous to this Court's disposition of the petition.² The *amici curiae* brief therefore should not be considered.

Respectfully submitted,

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¹ The only legal authority discussed by the *amici* that has not already been treated by WMATA is the decision of the United States Court of Appeals for the District of Columbia Circuit in *Morris v. WMATA*, No. 81-1209 (D.C. Cir. Mar. 8, 1983). The *amici* brief seriously misrepresents the tenor of that decision. In *Morris*, the District of Columbia Circuit did not actually decide whether WMATA could invoke sovereign immunity, but contrary to representations made by the *amici*, *Amici Brief* at 7, 10, the Court explicitly stated that "Lake County Estates and the terms of Public Law 89-447 §§ 12(a), 16, 17, 18 and 80 [the WMATA Compact] strongly indicate that the Authority is either *not* cloaked with the immunity enjoyed by Virginia and Maryland, or has waived such immunity. . ." *Morris v. WMATA, supra*, slip op. at 7 (emphasis added). The decision in *Morris* thus accords with the position of the Respondents. *See Brief for Respondents in Opposition* at 6, n.6. Indeed, to the extent the *amici* urge that the text of the Eleventh Amendment does not distinguish between the judicial power granted Article I and Article III courts, *Amici Brief* at 2, WMATA's express consent in Section 81 of the Compact to suit in the United States District Courts clearly obviates any need to review the decision below, which merely permits suit in the Superior Court as well.

² While the filing of this brief apparently indicates that two of the three signatories believe WMATA is capable of claiming immunity, *cf. Brief for Respondents in Opposition* at 6, n.6, this should be of no moment, as the Opinion below assumed this issue *arguendo*. *See Qasim v. WMATA*, 455 A.2d 904, 907-08 (D.C. 1983) (*en banc*) (Ferren, J., concurring).

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CERTIFICATE OF SERVICE

In accordance with Rules 22.1 and 28.3 of the Rules of the Supreme Court of the United States, I hereby certify that three copies of the foregoing "Respondents' Opposition to Consideration of the Brief *Amici Curiae* of the State of Maryland and the Commonwealth of Virginia in Support of the Petition for a Writ of Certiorari" were mailed by first-class United States mail, postage prepaid, to the following counsel of record on this 22nd day of April, 1983:

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